

Judicial Council of Georgia
Emergency Session

By Remote Conferencing

Monday, May 4, 2020
2:00 p.m.

- 1. Preliminary Remarks**
(Chief Justice Harold D. Melton, Est. Time – 5 Min.)
- 2. Roll Call of Judicial Council Members**
(Cynthia Clanton, Judicial Council Secretary and AOC Director, Est. Time – 2 Min.)
- 3. Adoption of Minutes from General Session on April 24, 2020**
(Chief Justice Harold D. Melton, Est. Time – 2 Min.)
- 4. COVID-19 Update and Discussion of Statewide Judicial Emergency Order by Judicial Council Members**
(Chief Justice Harold D. Melton, Est. Time – 15 Min.)
 - A. Town Hall meetings with Court Councils
- 5. Reports from Courts, Councils, State Bar, and AOC (Est. Time – 20 min.)**
 - A. Supreme Court
 - B. Court of Appeals
 - C. Business Court
 - D. Council of Superior Court Judges
 - E. Council of State Court Judges
 - F. Council of Juvenile Court Judges
 - G. Council of Probate Court Judges
 - H. Council of Magistrate Court Judges
 - I. Council of Municipal Court Judges
 - J. State Bar of Georgia
 - K. Administrative Office of the Courts

6. Reports from additional Judicial Branch Agencies (Est. Time – 10 Min.)

- A. Council of Accountability Court Judges**
- B. Georgia Commission on Dispute Resolution**
- C. Council of Superior Court Clerks**
- D. Chief Justice’s Commission on Professionalism**
- E. Georgia Council of Court Administrators**
- F. Institute of Continuing Judicial Education**
- G. Judicial Qualifications Commission**

7. Old/New Business

(Chief Justice Harold D. Melton, Est. Time – 5 Min.)

8. Concluding Remarks and Adjournment

(Chief Justice Harold D. Melton, Est. Time – 5 Min.)

Next Judicial Council Meetings – General Session

Friday, August 14, 2020	10 a.m. – 12:30 p.m.	Columbus Convention & Trade Center/Columbus, GA
Friday, December 11, 2020	10 a.m. – 12:30 p.m.	The Carter Center/Atlanta, GA

Judicial Council Meeting Calendar – 2021

Friday, February 12, 2021	10 a.m. – 12:30 p.m.	The James H. “Sloppy” Floyd Building/Atlanta, GA
Friday, April 23, 2021	10 a.m. – 12:30 p.m.	The Classic Center/Athens, GA
Friday, August 13, 2021	10 a.m. – 12:30 p.m.	Location TBD
Friday, December 10, 2021	10 a.m. – 12:30 p.m.	The Carter Center/Atlanta, GA

Please continue to check www.georgiacourts.gov (the Judicial Gateway) for the latest updates and information. Thank you and continue to be safe!

**Judicial Council of Georgia
General Session
Conference Call
April 24, 2020 • 10 a.m.**

Members Present

Chief Justice Harold D. Melton, Chair
Presiding Justice David E. Nahmias
Chief Judge Brian Amero
Chief Judge Berryl Anderson
Chief Judge Jeffrey Bagley
Judge Michael Barker
Chief Judge Christopher S. Brasher
Chief Judge Carl C. Brown
Chief Judge Geronda Carter
Judge Walter Davis
Chief Judge Donald W. Gillis
Chief Judge T.J. Hudson
Chief Judge Asha Jackson
Judge Lisa C. Jones
Judge Jeffrey Kight
Judge Shawn LaGrua
Chief Judge T. Russell McClelland
Chief Judge Christopher T. McFadden
Vice Chief Judge Brian K. Rickman
Judge Bubba Samuels
Chief Judge Juliette Scales
Judge Arthur Lee Smith
Mr. Darrell Sutton
Judge Wesley Tailor
Judge James G. Tunison, Jr.
Judge Ralph Van Pelt, Jr.
Chief Judge Willie C. Weaver
Chief Judge Kelli Wolk

Staff Present

Ms. Cynthia Clanton, Director
Mr. John Counts
Mr. Darron Enns
Ms. Jessica Farah
Mr. Christopher Hansard
Ms. Stephanie Hines
Ms. Cheryl Karounos
Ms. Noelle Lagueux- Alvarez
Ms. Alison Lerner
Ms. Tynesha Manuel
Ms. Tracy Mason
Ms. Lashawn Murphy
Ms. Tiffanie Robinson
Mr. Jeffrey Thorpe
Ms. Maleia Wilson

(Guests Appended)

Call to Order and Welcome

The meeting of the Judicial Council of Georgia (Council) was called to order at 10:00 a.m. by Chief Justice Harold Melton. Ms. Cynthia Clanton called roll for Council members; staff and guests were instructed to submit their attendance to Tiffanie Robinson, for the purposes of minutes. The Chief Justice administered the oath to Vice Chief Judge Brian K. Rickman as the newest Council member.

Approval of Consent Agenda

Chief Justice Melton directed the Council's attention to the consent agenda, noting the agenda includes 1) minutes from the emergency session on April 13, 2020; 2) the Budget Committee report; 3) the Legislation Committee report; 4) the Grants Committee report; 5) and the Strategic Plan Committee report. Chief Justice Melton further reported the budget is not finalized and may result in additional adjustments as a result of the state's current financial position, noting the judiciary may face additional budget reductions, including furloughs.

Presiding Justice Nahmias referred members to his written report, noting the Speaker [of the House of Representatives] hopes to reconvene the session on June 11, 2020. The Council is tasked with identifying challenges that must be addressed by future legislation. If court councils identify any emergency statutory changes, those changes should be forwarded to Tracy Mason to be vetted by the Legislation Committee. They should include specific language to be considered. Additionally, the Council should continue to consider any statutory changes needed in future legislative sessions, including judicial emergencies.

Chief Justice Melton announced the creation of a Strategic Planning Sub-Committee to address pandemic preparedness in the judiciary to be chaired by Judge Sarah Harris.

A motion to approve the consent agenda was offered by Judge Weaver, followed by a second from Judge Brasher. No discussion was offered, and the motion was approved without opposition.

Update on COVID-19 and Statewide Judicial Emergency

Chief Justice Melton provided an update on the position of the judiciary concerning COVID-19. Chief Justice Melton announced the current statewide judicial emergency order will remain in effect through the May 13, 2020, expiration date. He anticipates the extension of the order for jury trials for an additional thirty days. He requested feedback from the Council on additional items to be considered for the extended emergency order, noting jury trials provide similar exposure as school and stadium attendance. Chief Justice Melton reported items under consideration for an extended order include jurisdiction discretion, jury trials, and court summons application relative to video conference hearings.

Justice Blackwell provided an update on the discussion regarding terms of court by first recognizing the contributions of Judge Shawn LaGrua, Judge Christopher Brasher, Judge Robert McBurney, Judge Warren Davis, Judge Stephen Kelley, and Judge Wade Padgett. He reported the

emergency order has suspended the running of all time limits and deadlines in litigation. The challenge, however, is to address time limits relative to terms of court; the solution, to construe the emergency orders as applying in the same way for terms as it applies to days, months, or years. Terms of court interrupted by the emergency order would not count in the application of terms of court time frames.

Judge Jackson requested clarification on the application of the speedy trial provision with the extension of the emergency order for jury trials. Chief Justice Melton clarified that the terms of court provisions identified by Justice Blackwell would not be applicable until the expiration of all emergency orders. Judge Arthur Smith requested clarification on the inclusion of grand juries during the extension of the emergency order. Chief Justice Melton reported they are within the considerations to be included in the extension. Presiding Justice Nahmias further clarified that any term of court interrupted by the statewide order would be ignored as well as terms of court interrupted by local orders.

Judge McClelland requested guidance on arraignment calendars. Chief Justice Melton shared an idea previously proposed in other jurisdictions, that courts set a predetermined occupancy limit for the courtroom. Judge Amero requested clarification on whether waivers of arraignments were available to state court proceedings. Judge McClelland clarified waivers are used by attorneys; however, pro se litigants are often not knowledgeable of their right to waive arraignment or if they should waive arraignment. Judge Brasher suggested the following language be included in the extension order: "calendar calls are prohibited if they are of such size that they do not permit attendees to practice social distancing as required or suggested by public health authorities."

Judge Anderson reported a concern regarding time parameters relative to temporary protective orders. She requested consideration to extend the time frames to address the current backlog of 12-month hearings. The Committee discussed the nuances of the 12-month hearings including the parties not traditionally involved in an emergency hearing; and possible solutions to address the backlog. Presiding Justice Nahmias further clarified the extension is 60 days to hold the hearings because of the time provisions referenced in the emergency order.

Chief Justice Melton reported the Council of State Court Judges and the Council of Municipal Court Judges both requested his participation in a town hall that is currently being planned. Also, under consideration is a summit for landlords and tenants regarding evictions.

Judicial Council Committee Reports

Technology Committee. Chief Justice Melton provided an update on the Technology Committee, reporting proposed amendments to the Statewide Minimum Rules and Standards for Electronic Filing. The first amendment, to Rule 11, replaces the word "acceptance" with "receipt." Additionally, the amendment to include Rule 2(b)(6) and correction to Rule 2(a)(1) were presented. Chief Justice Melton requested approval based on the recommendation of the Committee. No discussion was offered, and the motion was approved without opposition.

Court Reporting Matters Committee. Vice Chief Judge Rickman directed Council members to the written materials which referenced the credentials of the recommended appointments to Board of Court Reporting and requested approval of the reappointments of Pavon Bohanna, Kevin King, and Brenda Trammel, as well as the appointment of new member, Hal Daniels.

A motion to approve the appointments to the Board of Court Reporting was offered by the Court Reporting Matters Committee, followed by a second from Judge Smith. No discussion was offered, and the motion was approved without opposition.

Judicial Workload Assessment Committee. Judge Emerson reported on the recommended changes to the Judicial Council Policy on the Study of Superior Court Judgeships and Circuit Boundaries including that the judgeship value be rounded to the nearest tenth, as well as an edit to the text to remove the relative language. The second recommendation is to treat multiple judgeship requests as separate requests. Other recommendations include reclassification of RICO from felony to serious felony in workload assessment calculations and the classification of serious traffic cases to include driving under the influence (DUI), homicide by vehicle, reckless driving, aggressive driving, and fleeing; be given the same weight at routine felonies. Mr. Christopher Hansard requested approval to also correct typos in the document.

No discussion was offered, and the recommendations were approved without opposition.

Cybersecurity Insurance Committee. Judge Wade Padgett presented the work of the Ad Hoc Committee on Cybersecurity Insurance for the Judiciary. Judge Padgett informed the Council of the two types of coverage often available to entities, as well as the work the Committee performed to identify the entities to be covered by the Judiciary solution. Judge Padgett recognized the work of Mr. Wade Damron; Mr. Darron Enns in creating a map of the judicial relationships; the work of Ms. Phyllis Sumner and the staff at King and Spalding for their contributions; as well

as Ms. Tynesha Manuel for her support of the Committee. Judge Padgett went on to report the options identified by the Committee as well as the recommendation of the Committee to consider a single policy, with a tiered approach similar to the University System [of Georgia]. Additionally, the Committee recommended the creation of a Committee to provide oversight for the implementation of the cybersecurity solution. Judge Padgett requested approval of the recommendation. Chief Justice Melton recognized the work of Judge Coomer and Judge Padgett.

A motion to approve the recommendation of the Ad Hoc Committee on Cybersecurity Insurance for the Judiciary was offered by Judge Wolk, followed by a second from Chief Judge McFadden. No discussion was offered, and the motion was approved without opposition.

Chief Justice Melton reported the creation of an Ad Hoc Committee on Cybersecurity Insurance Implementation to be chaired by Justice Bethel, with Judge Rickman to serve as Vice Chair.

Justice Melton recognized the work of Mr. Darron Enns; Ms. Tynesha Manuel; and Ms. Phyllis Sumner and staff.

Report from AOC Director

Ms. Clanton directed Council members to her written report. She highlighted the retirement of Justice Benham; the presentation to AOC staff by Justice Sarah Warren; the work of various court councils at the state capitol; and the second State of the Judiciary address delivered by Chief Justice Melton. Ms. Clanton recognized Justice Boggs for receiving the Mercer University Law School Alumni Meritorious Service Award, as well as Judge Carl Brown and Judge Rizza O'Connor for being honored for their extraordinary leadership and contributions.

Ms. Clanton also recognized the AOC staff for their continued assistance to local courts and the creation of court resources during the COVID-19 pandemic. Ms. Clanton closed her remarks by reminding the Council of the AOC's role as a service agency to the judiciary.

Reports from the Courts, Councils, & State Bar

Supreme Court. Chief Justice Melton welcomed Justice Carla Wong McMillan to the Supreme Court of Georgia, noting she is the first Asian Pacific American to serve on a state Supreme Court in the southern United States. The Supreme Court has had oral arguments all week except for Friday, recognizing the Court's Information Technology staff and clerk for their efforts in the execution of oral arguments. Chief Justice Melton recognized the judges on the Council and the clerks of court for their continued excellence and courage during this time.

Court of Appeals. Judge McFadden congratulated Justice McMillan on her recent appointment to the Georgia Supreme Court. He also welcomed Judge Verda Colvin and Judge Trea Pipkin as the newest members of the Georgia Court of Appeals, and congratulated Judge Rickman on his election as Vice Chief and Judge Clyde Reese for his appointment as Presiding Judge of Division V. Judge McFadden shared condolences for the family of Judge Gary Andrews, former judge on the Court of Appeals. Regarding the delivery of services during the emergency period, the Georgia Court of Appeals has been fully functional. April's oral arguments were postponed to May and June. To allow for physical filings, a dropbox was set up for self-represented parties, as well as enabling e-filing for self-represented parties. Judge McFadden concluded by recognizing the work of Mr. Darron Enns.

Business Court. Judge Davis referred members to his written report.

Council of Superior Court Judges. Judge LaGrua recognized the podcast of Judge Tain Kell and Judge Padgett. She thanked the staff of the Council of Superior Court Judges for support as well as Chief Justice Melton and the judges of the judiciary for their leadership and support.

Council of State Court Judges. Judge McClelland referred members to his written report. He supplemented the report by reporting the Council is also identifying ways to continue court operations. Judge McClelland recognized Chief Justice Melton for his leadership and Mr. Bob Bray for his work as Executive Director in supporting the Council.

Council of Juvenile Court Judges. Judge Scales thanked the AOC for their support. She reported that juvenile courts are continuing to perform work as permitted. Judge Scales and Judge Jones reported Georgia Uniform Juvenile Court Rule 12.2 does not allow for specific hearings via video conferencing. Judge Jones requested Chief Justice Melton to address this challenge as it requires the isolation of juveniles when transported for hearings. Chief Justice Melton requested the Council proposes specific language to address the challenge. Presiding Justice Nahmias provided clarification on the challenges with video conferencing for restricted hearings.

Council of Probate Court Judges. Judge Hudson referred members to his written report, supplementing the report by requesting prayers for Judge Bruce Wright, whose son passed yesterday.

Council of Magistrate Court Judges. Judge Barker referred members to the written report; he noted the dissemination of best practices and guides for magistrate courts in preparation for resuming operations. Judge Barker also reported the submission of several emergency rules to the

Supreme Court, to allow for video conferencing trials for limited circumstances and with consent, a CARES Act affidavit for dispossessories, and a temporary suspension of certain hearing deadlines. Chief Justice Melton reported the media is reporting on the perceived lack of a statewide ban on evictions; however, the judicial emergency order effectively bans the filing of evictions and the judiciary is working to clarify that.

Council of Municipal Court Judges. Judge Samuels reported municipal courts are standing by the emergency order through the execution of critical functions. Judge Samuels expressed gratitude for the support received during his tenure on the Judicial Council.

State Bar of Georgia. Mr. Sutton referred members to his written report. He further recognized the justices on the Supreme Court and the judges in Georgia for their support.

Report from Additional Judicial Branch Agencies

Council of Accountability Court Judges. Ms. Taylor Jones referred members to her written report adding courts are still operational.

Georgia Commission on Dispute Resolution. Ms. Tracy Johnson welcomed the two newest Commission members Judge Clarence Cuthbert, Jr., and Mr. Neil Staten Bittings, Jr; both will be sworn in on May 6. Over the last week, over 920 registered neutrals received training on how to mediate online. She also reported virtual platforms are being tested for required supplemental training.

Council of Superior Court Clerks. Mr. Mike Holiman reported superior court clerks have reported local circumstances that prevent the successful execution of jury trials and have requested additional guidance as is practical.

Chief Justice's Commission on Professionalism. Ms. Karlise Grier referred members to her written report.

Georgia Council of Court Administrators. Ms. Stephanie Hines reported GCCA has set up a COVID-19 resource page and will begin assessing future training options.

Institution of Continuing Judicial Education. Mr. Doug Ashworth referred members to his written report.

Judicial Qualifications Commission. Mr. Chuck Boring referred members to his written report.

Recognition of Outgoing Members

Chief Justice Harold D. Melton recognized the service of Judge LaGrua, Judge Smith, Judge Gillis, Judge Tunison, Judge McClelland, Judge Scales, Judge Hudson, Judge Anderson, Judge Barker, Judge Samuels, and Mr. Sutton as they will end their tenure on the Judicial Council before the next regularly scheduled meeting.

Concluding Remarks

Chief Justice Melton announced that the next Council meeting would be Friday, August 14, 2020, at the Columbus Convention & Trade Center in Columbus, GA. The next Judicial Council Emergency Session is scheduled for May 4, 2020.

Adjournment

Hearing no further business, Chief Justice Melton adjourned the meeting at 11:37 a.m.

Respectfully submitted:

Tynesha Manuel
Assistant Director, Judicial Council/AOC
For Cynthia H. Clanton, Director and Secretary

The above and foregoing minutes
were approved on the _____ day of
_____, 2020.

Harold D. Melton
Chief Justice

**Judicial Council of Georgia
General Session
Conference Call
April 24, 2020 • 10 a.m.**

Guest Present

Judge Cynthia C. Adams, Douglas County Superior Court
Mr. Douglas Ashworth, Institute of Continuing Judicial Education
Mr. Joseph Baden, Third Judicial Administrative District
Judge JaDawnya C. Baker, Atlanta Municipal Court
Ms. Therese Barnes, Supreme Court of Georgia
Judge Violet R. Bennett, State Court Wayne County
Ms. Lisa Boggs, Office of State Administrative Hearings
Mr. Chuck Boring, Judicial Qualifications Commission
Mr. Bob Bray, Council of State Court Judges
Ms. Mazie Lynn Causey, Georgia Association of Criminal Defense Lawyers
Judge James F. Council, Juvenile Courts for Southern Circuit
Judge Melanie B. Cross, Tifton Judicial Circuit
Mr. Richard F. Denney, First Judicial Administrative District
Mr. Steve Ferrell, Ninth Judicial Administrative District
Judge Kathlene Gosselin, Northeastern Judicial Circuit
Ms. Karlise Grier, Chief Justice's Commission on Professional
Mr. Kevin Holder, Council of Probate Court Judges
Mr. Michael Holiman, Council of Superior Court Clerks
Mr. Eric John, Council of Juvenile Court Judges
Ms. Tracy Johnson, Georgia Dispute of Resolution
Ms. Taylor Jones, Council of Accountability Courts Judges
Ms. Anne Kirkhope, Council of Juvenile Court Judges
Ms. Natasha MacDonald, Council of Superior Court Judges
Ms. Cathy McCumber, Fourth Judicial Administrative District
Justice Carla McMillian, Supreme Court of Georgia
Ms. Tia Milton, Supreme Court of Georgia
Mr. David Mixon, Second District Court Administrator
Mr. Jay Neal, Criminal Justice Coordinating Council
Ms. Debra Nesbit, Association County Commissioners of Georgia
Ms. Jody Overcash, Seventh Judicial Administrative District
Judge J. Wade Padgett, Council of Superior Court Judges
Judge James L. Prine, Southern Circuit
Ms. Sharon Reiss, Council of Magistrate Court Judges
Ms. Jimmonique Rodgers, Georgia Public Defender Council
Mr. Robert W. Smith, Jr., Prosecuting Attorneys' Council of Georgia
Ms. Courtney Veal, Judicial Qualifications Commission
Judge Sarah F. Wall, Eighth Judicial Administrative District
Ms. Kristen Wallace, Council of Juvenile Court Judges
Mr. Shannon Weathers, Council of Superior Court Judges
Judge Alvin T. Wong, DeKalb County Courthouse
Ms. Emily Youngo, Council of Superior Court Judges of Georgia

Guidance on the Extension of Deadlines and Time Limits
Defined by Reference to Terms of Court
Under the Chief Justice's Order
Declaring Statewide Judicial Emergency

Questions have arisen about how the tolling provisions of the Chief Justice's Order Declaring Statewide Judicial Emergency (March 14, 2020) and Order Extending Declaration of Statewide Judicial Emergency (April 6, 2020) apply to deadlines and time limits that are defined by reference to terms of court. See, e.g., OCGA § 17-7-170 (statutory demands for speedy trial in noncapital cases); § 17-7-171 (statutory demands for speedy trial in capital cases); § 17-9-61 (motions in arrest of judgment); Hipp v. State, 293 Ga. 415, 416 (746 SE2d 95) (2013) (inherent authority of trial court to amend, correct, or revoke “its orders and judgments during the term at which they are entered”) (citation omitted); Rubiani v. State, 279 Ga. 299, 299 (612 SE2d 798) (2005) (withdrawal of guilty pleas). With respect to these deadlines and time limits, any regular term of court that is interrupted—whether at the beginning of the term, in the middle of the term, or at the end of the term—by the statewide judicial emergency simply does not count in the calculation of the deadlines and time limits.

To illustrate the application of this principle, consider a court with terms beginning on the first day of January, March, May, July, September, and November, and suppose that the statewide judicial emergency that was declared on March 14 were lifted on May 13. In that court, the March and May terms—both of which were interrupted by the statewide judicial emergency—would not count toward the calculation of any deadline or time limit that is defined by reference to terms of court. As a result:

- If a demand for speedy trial in a capital case were timely filed on February 26, the January term of court—which was not interrupted by the statewide judicial emergency—would start the “clock,” requiring the State to bring the case to trial no later than the end of the third regular term after the January term. But because the March and May terms would not count, the accused would not become entitled to a discharge and acquittal until after the

conclusion of the November term, assuming that jurors were qualified and available to try the accused in the July, September, and November terms.

- If an order were entered on March 5, and no appeal were taken, the court would have the power to amend, correct, or revoke its order through the end of the July term. Although the inherent authority of a trial court to amend, correct, or revoke its own judgment or order ordinarily expires at the end of the term in which the judgment or order was entered, the March and May terms would not count, and this authority would extend into the July term, the first term of court to begin after the expiration of the statewide judicial emergency.
- If a demand for speedy trial in a noncapital case were timely filed on May 15, the May term would not count as the first of the two terms in which the State would be allowed to bring the case to trial. The “clock” would not start running until the July term, and the accused would not become entitled to a discharge and acquittal until after the conclusion of the September term, assuming that jurors were qualified and available to try the accused in the July and September terms.

This is consistent with the understanding of the tolling provisions of the Chief Justice’s Orders as applied in other contexts. When the tolling provisions are applied to a deadline or time limit that is measured by reference to days (or to some unit of time, such as years, that is readily reducible to days), any day on which the statewide judicial emergency was in effect would not count toward such deadline or time limit. Similarly, when the tolling provisions are applied to a deadline or time limit that is measured by reference to statutory terms of court, any term in which the statewide judicial emergency was in effect would not count toward such deadline or time limit.

May 1, 2020

Guidance on the Continued Authority of Grand Juries
Impaneled Prior to the Issuance of the
Chief Justice's Order Declaring Statewide Judicial Emergency

A question has arisen about whether a grand jury impaneled prior to the issuance of the Chief Justice's Order of March 14, 2020, Declaring Statewide Judicial Emergency may continue to serve beyond the term of court for which it was summoned and impaneled. The question reflects a recognition that, although the ongoing COVID-19 outbreak may render the summoning and impaneling of a new grand jury imprudent and impractical, there may be essential business that requires the attention of a grand jury and that cannot reasonably be delayed until after public health considerations permit the resumption of regular jury proceedings.

Generally speaking, the authority of a grand jury is limited to the term of court for which it was summoned and impaneled, and when that term comes to an end—whether by adjournment or by operation of law upon the commencement of the next regular term—the authority of the grand jury is at an end. See State v. Grace, 263 Ga. 220, 221 n. 5 (430 SE2d 583) (1993). See also Durden v. State, 299 Ga. 273, 276 (2) (b) (787 SE2d 697) (2016). And in general, a grand jury at one term of court cannot hold over and continue to serve at the next term of court. See Braxley v. State, 143 Ga. 658, 658 (2) (85 SE 888) (1915). See also Tompkins v. State, 138 Ga. 465, 465 (2) (75 SE 594) (1912). For some counties, however, there may be local laws that specifically authorize grand juries to hold over from one regular term to another. See, e.g., Brown v. State, 242 Ga. 602, 602 (1) (250 SE2d 491) (1978); Long v. State, 160 Ga. 292, 292 (1) (127 SE 842) (1925). And in the absence of locally specific authorization for a grand jury to hold over to a subsequent term, OCGA § 15-6-20 authorizes the superior court to adjourn a regular term early and hold a special term, at which the grand jury for a prior regular term can be recalled. See Haden v. State, 176 Ga. 304, 304 (3) (168 SE 272) (1933). See also Braxley, 143 Ga. at 658 (2).

Accordingly, if the term of court for which a grand jury was last impaneled has come to an end, and if there is essential business for the grand jury that cannot await the summoning and impaneling of a new grand jury, the superior court should first consider whether any local law

specifically authorizes the grand jury to hold over to the next regular term. If no such locally specific authorization exists, the superior court should consider an early adjournment of its regular term and the holding of a special term, at which the prior grand jury may be recalled to attend to essential business that cannot be deferred until after public health considerations permit the resumption of regular jury proceedings.

May 1, 2020